

**FLATHEAD COUNTY PLANNING AND ZONING OFFICE**  
**CONDITIONAL USE PERMIT REPORT (#FCU-12-05)**  
**JOE STREET & RON CALDBECK**  
**July 24, 2012**

A report to the Flathead County Board of Adjustment regarding a request by Joe Street, with representation by Ronald & GayAnn Caldbeck, for a conditional use permit to allow for a commercial recreational area located off US Highway 93 in Lakeside.

The Flathead County Board of Adjustment will hold a public hearing on the proposed conditional use on August 7, 2012 beginning at 6:00 P.M. in the 2<sup>nd</sup> floor conference room of the Earl Bennett Building, 1035 First Avenue West, Kalispell. Documents pertaining to this file are available for public inspection in the Flathead County Planning and Zoning Office, also located on the second floor of the Earl Bennett Building.

**I. APPLICATION REVIEW UPDATES**

**A. Land Use Advisory Committee/Council**

This application was originally scheduled to be heard by the Lakeside Community Council on June 26, 2012, allowing for the Council's comments and recommendation to be presented at the Board of Adjustment meeting on July 3, 2012. However, on June 20, 2012, the applicant submitted a request to postpone consideration of the application by the Board of Adjustment in order to submit additional information to the Planning Office for review. Therefore, the proposal will now be heard at the Lakeside Community Council meeting, held on July 31<sup>st</sup>, 2012. This space will be updated following the meeting on July 31<sup>st</sup>, 2012.

**B. Board of Adjustment**

This application was originally scheduled to be heard by the Flathead County Board of Adjustment on July 3, 2012. However, on June 20, 2012, the applicant submitted a request to postpone consideration of the Conditional Use Permit application, in order to submit additional information to the Planning Office for review. Therefore, the proposal will now be presented to the Board of Adjustment at the August 7<sup>th</sup>, 2012 meeting. This space will be reserved for an update regarding the August 7<sup>th</sup>, 2012 Board of Adjustment review.

**II. GENERAL INFORMATION**

**A. Application Personnel**

**i. Landowner**

Joe Street  
9163 Irish Lane  
Mount Vernon, OH 43050  
(740) 397-4839

**ii. Applicant**

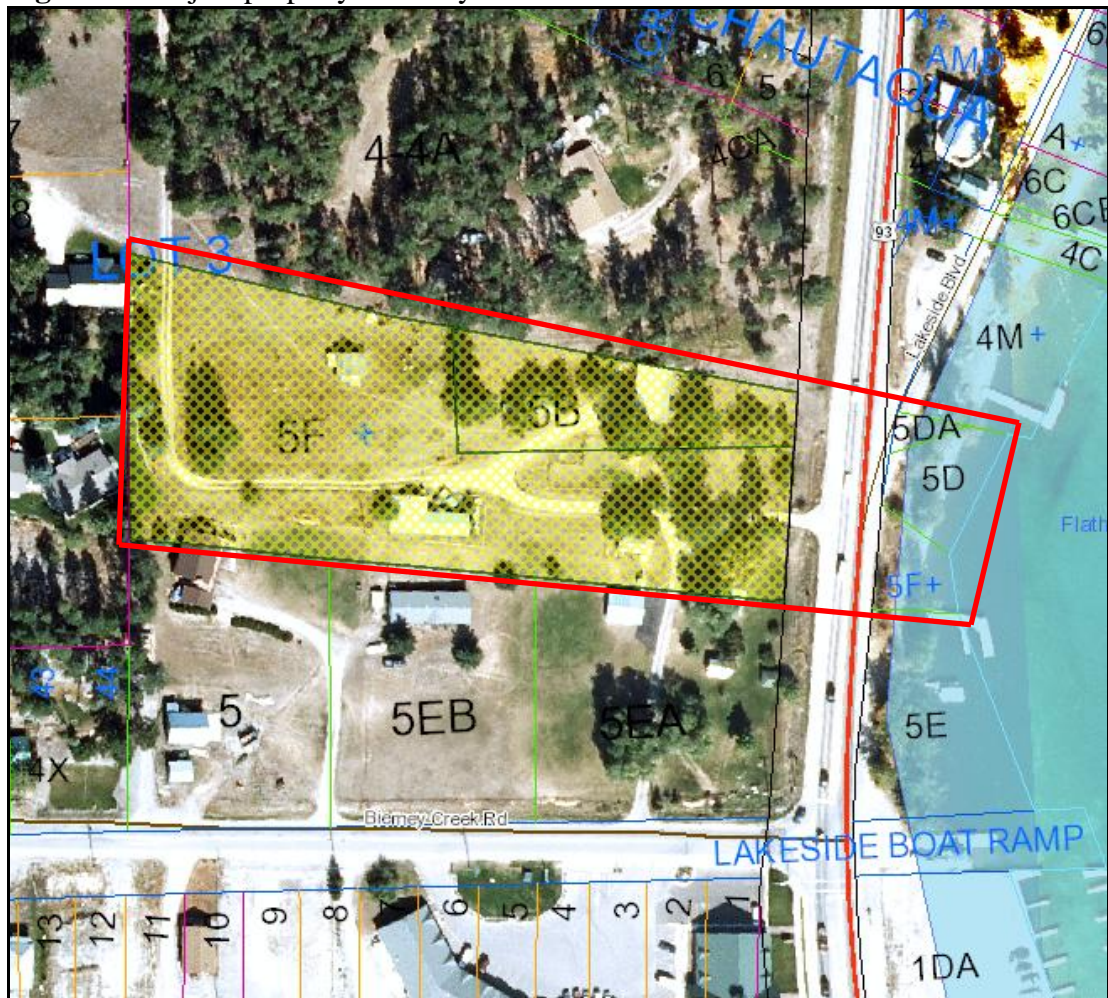
Ronald & GayAnn Caldbeck  
P.O. Box 7697

Kalispell, MT 59904  
(406) 844-0410  
[mrdoos@montanasky.net](mailto:mrdoos@montanasky.net)

## B. Property Location and Size

The subject properties are located adjacent to the intersection of US Highway 93 and Lakeside Boulevard, on both sides of US Highway 93; approximately 300 feet north of Bierney Creek Road in Lakeside (see Figure 1 below). The physical addresses of the properties are 7074 and 7070 Highway 93, and can be legally described as Tracts 5F-WOFHIGWAY, 5B, 5DA, 5D, 5F-EOFHWY in Section 7, Township 26 North, Range 20 West, P.M.M., Flathead County, Montana. All five parcels together, total approximately 3.1 acres in size.

**Figure 1:** Subject property shaded yellow and outlined in red box.



## C. Existing Land Use(s) and Zoning

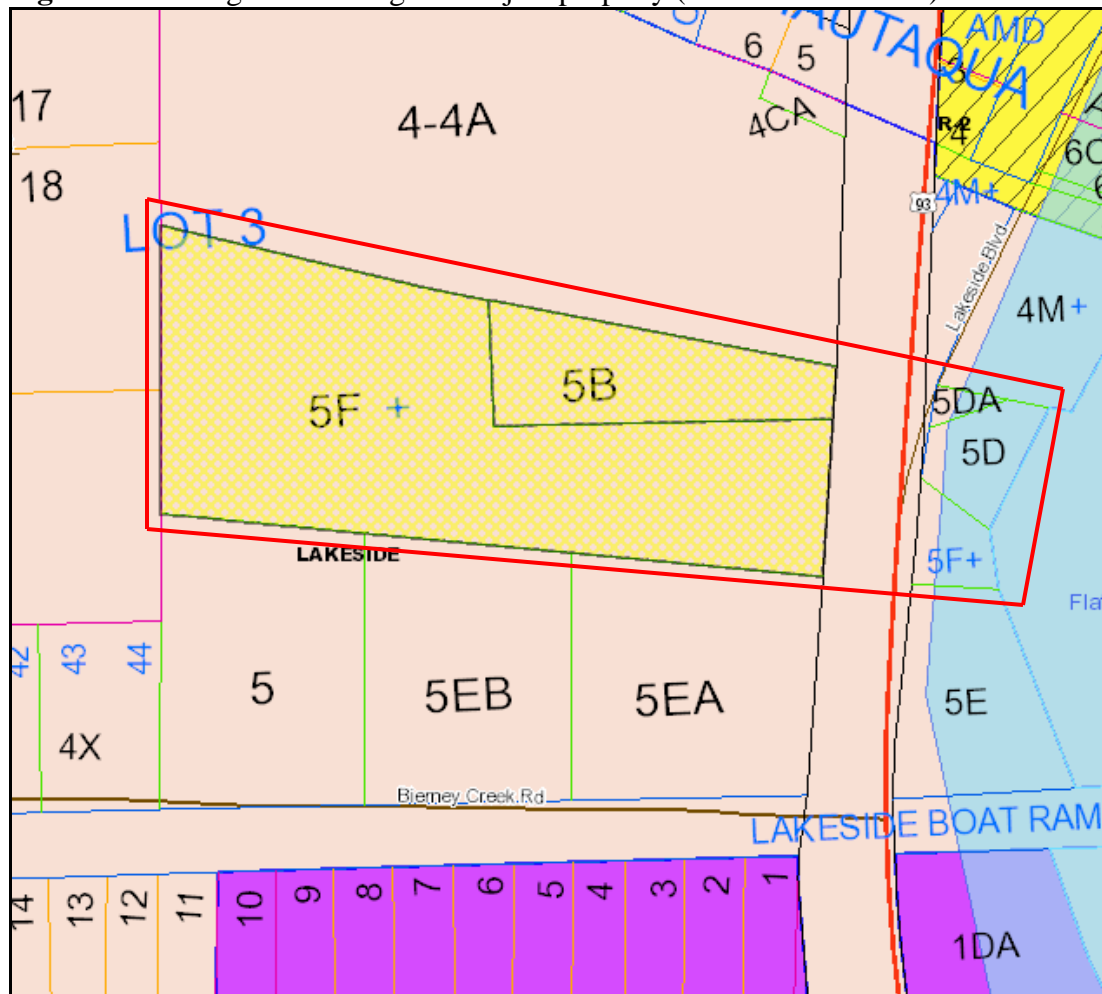
The two parcels located on the west side of US Highway 93 are currently developed with residential uses, while the three properties on the east side of US Highway 93 are not developed. All five parcels are located within the Lakeside zoning district, and are zoned 'Lakeside.'. The 'Lakeside' zoning is a classification intended to "further

*the goals of the Lakeside Neighborhood Plan by providing for the orderly development of Lakeside and specifically by providing for a commercial center, encouraging residential development within existing neighborhoods by establishing height and setback standards that reflect the existing pattern of growth and by protecting existing uses within the community of Lakeside.”*

#### **D. Adjacent Land Use(s) and Zoning**

The general area surrounding the subject properties is a mixture of commercial and residential uses. Adjacent land to the north, south, east, and west of the subject parcels is similarly zoned “Lakeside.” Further south along Bierney Creek Road is the beginning of the Special Commercial district within the Lakeside zoning. Currently, the properties located north, south, and west of the subject parcels are utilized for residential purposes. The properties located north and south of the three parcels along the eastern side of US Highway 93 are also used for residential purposes. Further south of the subject properties is the public boat ramp and the Lakeside Marina, which is a commercial use.

**Figure 2:** Zoning surrounding the subject property (outlined in red box).



#### **E. Summary of Request**

The 'Lakeside' zoning district lists multiple uses either as outright permitted or requiring a conditional use permit prior to commencement of the activity. The 'Lakeside' zoning district is slightly different than other districts in Flathead County because it establishes additional permitted uses for a 'Special Commercial' area, defined as property along US Highway 93 between Bierney Creek Road and Ben Williams Lane in downtown Lakeside. Within this 'Special Commercial' area, the permitted uses are expanded. However, Conditional Uses for the 'Lakeside' zoning are codified separately, and therefore appear to apply to all areas within the 'Lakeside' zoning, not just the 'Special Commercial' area. At this time, the applicant is requesting a conditional use permit to allow for the establishment of a 'Commercial Recreation Area' on the subject properties. The subject properties proposed for this use are *not* within the 'Special Commercial' zoning area. Section 7.17.020 of the Flathead County Zoning Regulations defines a commercial recreation area as "*an area operated for profit and devoted to facilities and equipment for recreational purposes, including swimming pools, tennis courts, playgrounds, and other similar uses whether the use of such area is limited to private membership or open to the public upon payment of a fee or service charge.*" The applicant proposes to establish the area to facilitate the rental, repair, and storage of personal watercraft and boats. Currently the property is being utilized for residential purposes. The applicants propose to keep the existing residential manufactured home, and turn it into their rental office. Additionally, the applicants propose to construct a new structure which would be used for boat repair work and detailing. The applicants currently have approximately 40 boats utilized for their business throughout Flathead County. They have stated they will run as many boats from the property in Lakeside as the area will accommodate, which will be approximately 20 boats for the rental business. The normal months of operation would be from June 15<sup>th</sup> until September 30<sup>th</sup>, with the business running from 9:00AM to 6:00PM Monday through Saturday, and 10:00AM to 6:00PM on Sundays. Some late evening hours would also be proposed. The applicant would place 4 boats in the water within the proposed dock boat slips, with the remaining 16 boats launched or rented on a trailer when necessary. The applicant would launch the boats at the neighboring County boat ramp, and moor the boats at the dock proposed for construction under lakeshore variance permit FLV-12-03.

#### **F. Compliance With Public Notice Requirements**

Notification was mailed to property owners within 300 feet of the subject property on June 11, 2012, pursuant to Sections 2.06.040(3) and 3.42.050(7) of the Flathead County Zoning Regulations. Legal notice of the public hearing on this application was published in the June 17, 2012 edition of the Daily Interlake.

On June 20, 2012 the applicant requested the proposal be postponed until the August 7<sup>th</sup>, 2012 Board of Adjustment meeting. Therefore, notification was again mailed to property owners within 300 feet of the subject property on July 13, 2012. The legal notice of the public hearing was also resubmitted and published in the July 22, 2012 edition of the Daily Interlake.

## **G. Agency Referrals**

Referrals were sent to the following agencies on May 30, 2012:

- Jim Chilton, Flathead County Solid Waste
  - Reason: The property is located within the department's jurisdiction, and has the potential to impact County facilities.
- Somers Fire Department
  - Reason: The property is located within the department's jurisdiction, and has the potential to impact their facilities.
- Glen Gray, Flathead City-County Environmental Health Department
  - Reason: The property may be located within the department's jurisdiction, and may require approval by their office.
- Joe Russell, Flathead City-County Environmental Health Department
  - Reason: The property may be located within the department's jurisdiction, and may require approval by their office.
- Lakeside County Water and Sewer District
  - Reason: The property is located in the district's jurisdiction, and has the potential to impact their facilities.
- James Freyholtz, Montana Department of Transportation (MDT)
  - Reason: The property has direct access onto US Highway 93.
- Jean Crow, Montana Department of Transportation (MDT)
  - Reason: The property has direct access onto US Highway 93.
- Anne Moran, Department of Natural Resources and Conservation (DNRC)
  - Reason: The proposal is to utilize Flathead Lake, a navigable waterway under the DNRC's regulations.
- Marc Pitman, Department of Natural Resources and Conservation (DNRC)
  - Reason: The property is located adjacent to Flathead Lake, and has the potential to impact water resources.
- Jed Fisher, Flathead County Weed and Parks Department
  - Reason: The property is located near an existing County Park, and has the potential to impact their facilities.

## **III. COMMENTS RECEIVED**

### **A. Public Comments**

No written public comments have been received to date regarding the proposed expansion. It is anticipated any individual wishing to provide public comment on the proposal will do so at the Lakeside Community Council meeting on July 31, 2012, or during the public hearing at the Board of Adjustment meeting scheduled for August 7, 2012. Any written comments received following the completion of this report will be provided to the Board and summarized during the public hearing.

### **B. Agency Comments**

The following is a summarized list of agency comment received as of the date of the completion of this staff report:

- Marc Pitman, DNRC
  - I find no issues as they may pertain to either the regulatory floodplain or to water rights.

- Joe Russell, Flathead City-County Health Department
  - They say water and sewer services are available; this is not the same as ‘will be provided.’ Should check with the Lakeside Water and Sewer District regarding this matter. Although this is not directly my issue, but this appears to be a change of use that could cause some traffic problems.
- James Freyholtz, MDT
  - I have no comment regarding this proposal.
- Glen Gray, Flathead City-County Health Department
  - The proposed recreational facility shall be served by public water and sewer provided by the Lakeside County Water & Sewer District. Additionally, although there is no storm drainage system required by any governmental agency, this office would expect that a professional engineer will be retained to design and supervise the construction of a storm drainage system built to those standards developed by the Montana Department of Environmental Quality.

#### **IV. CRITERIA REQUIRED FOR CONSIDERATION**

Per Sections 2.06.080 and 2.06.100 of the Flathead County Zoning Regulations (FCZR), what follows are criteria required for consideration of a Conditional Use Permit and drafted findings of fact based on review of each criterion.

##### **A. Site Suitability**

###### **i. Adequate usable space**

The proposed commercial recreation area will occur on five adjacent parcels, which total approximately 3.1 acres. The main portion of the operation will occur on Tracts 5B and 5F-WOFHIGWAY, which are located on the west side of US Highway 93. These two parcels are currently being utilized for residential purposes. The three remaining tracts, 5D, 5DA, and 5F-EOFHWY, are located on the east side of US Highway 93, adjacent to Flathead Lake, and are currently vacant. At this time the applicant is proposing to utilize the manufactured home located on tract 5B for the rental office. The manufactured home is approximately 20 feet wide by 50 feet long, or approximately 1,000 square feet. There is also an existing shop and garage currently located on the property west of US Highway 93. Previously, the applicant had decided the buildings will remain; however, on July 17, 2012 they submitted an updated site plan proposing the two buildings to be removed. The applicant is proposing to construct a new structure for boat repair and maintenance. The new building will be approximately 40 feet wide by 50 feet long, or approximately 2,000 square feet.

There appears to be adequate space on the subject parcels to accommodate the proposed use, as the Lakeside zoning district does not list a maximum amount of permitted lot coverage. On the site plan submitted July 17, 2012, the applicant has relocated the proposed new structure to meet all required setbacks of the district. Setback is defined as *“the horizontal distance required between the right-of-way or property line, whichever is closest, and the building line.”* [Section 7.18.045 FCZR] As the subject property has abundant buildable area



where the proposed structure could be built in compliance, the development complies with the applicable bulk and dimensional requirements of the Lakeside zoning district.

**Finding #1** – The subject property contains adequate usable space because the proposed commercial recreation area would occur on 5 parcels which total approximately 3.1 acres, there is suitable buildable area to accommodate the functional needs of the proposed use, and the proposal as submitted on July 17, 2012 can meet all the applicable bulk and dimensional requirements of the Lakeside zoning.

**ii. Adequate access**

The two tracts located on the west side of US Highway 93 currently have an existing approach, partially paved, to facilitate access directly onto the highway. The remaining three tracts located adjacent to Flathead Lake do not have any existing access. The highway at this location is relatively straight with clear site distances and good visibility. (See Figures 3 and 4) However, the property is adjacent to the location where the speed limits change coming into and leaving the community of Lakeside. At this location, the speed limits change from 45mph to 35mph, coming into Lakeside. Staff contacted the Montana Department of Transportation for agency comments, however, at this time they have no comments regarding the proposal. Staff is unable to determine whether the amount of traffic entering and exiting the property will have an *adverse* impact on the existing access without any MDT comment. Therefore, the applicant will be required to contact MDT to determine if a new approach permit is necessary. Documentation indicating a new approach permit has been granted, or a letter from MDT stating it is not required will need to be available within one-year of the permit issuance. Additionally, the applicant proposes the potential customers to park their vehicles on the two parcels located on the western side of US Highway 93, walk across the highway to the three parcels adjacent to Flathead Lake, where they would pick up the rental boats. There are no crosswalks or signage currently along the highway at the property location, as well as no existing sidewalks along the highway. In order to maintain safe access to and from the property, the applicant shall be required to install a pedestrian crosswalk with applicable demarcation and signage, if allowed by MDT, as a condition of approval.

On July 17, 2012, the applicant informed the Planning Office that they had scheduled a meeting with MDT representative Dave Roser for Monday July 23, 2012 to discuss the existing approaches and the proposed crosswalk, and that they would widen the existing approach to accommodate incoming and outgoing traffic. At this time, no additional information has been submitted to our office regarding any additional comments or concerns from MDT.

**Figure 3:** Looking Northwest across US Highway 93.



**Figure 4:** The existing access and approach on US Highway 93.



**Finding #2** - The site appears to have adequate access because the western parcels have direct access onto US Highway 93, the approach appears to have good site distances to allow traffic to enter and exit the property safely, the



applicant will be required to contact MDT to determine if a new approach permit is necessary, and the applicant will be required to establish a pedestrian crosswalk with appropriate signage across US Highway 93, if allowed by MDT, to maintain safe access to and from the subject property.

**iii. Absence of environmental constraints**

Both parcels on the western side of US Highway 93 have already been developed for residential purposes. Additionally, the properties do not appear to be located within a Special Flood Hazard Area as depicted on the Flood Insurance Rate Map panel 30029C2300G. There do not appear to be any wetlands or other type of water body located on either of the two western tracts, as observed during staff's site visit. The remaining three tracts located east of US Highway 93 are adjacent to Flathead Lake; however, no buildings are proposed to be built on any of the eastern parcels. The three parcels are highly vegetated with mature trees, shrubs, and grass. (See Figures 5 and 6 below) The lakeshore is mostly small gravel with numerous logs and other debris washed ashore. There does not appear to be any wetlands or small creeks located on any of the three tracts. The two western parcels are slightly sloped; however, there does appear to be buildable areas on both tracts. The applicants may wish to incorporate the existing topography into their building design. All of the subject parcels are located within the Wildland Urban Interface (WUI). However, the majority of the property is covered by simple grasses, and does not contain heavy dense vegetation. Therefore, wildfire danger does not appear to be a significant risk.

The applicant is proposing, as part of the project, to establish a private marina on the three tracts located on the east side of US Highway 93. As the private marina would be within the 20 foot Lakeshore Protection Zone, the applicant is required to apply for a Lakeshore Construction Permit. In order to comply with the requirements of the Flathead County Lake and Lakeshore Protection Regulations, the applicant is applying for three variances, which the Board of County Commissioners determined is a major variance to the regulations. The criterion for approval of the variances includes numerous environmental impacts such as wildlife habitat, water quality, impacts to navigation, and alteration of the existing shoreline. As part of the proposed private marina on the three parcels located east of US Highway 93, the applicant is *not* proposing any gas distribution, public restrooms, buildings, or any other public areas which may accumulate trash or debris. In order to determine that the proposed project will not impact the environment, as a condition of approval, the applicant will be required to receive approval of the major variance application by the Board of County Commissioners.

**Figure 5:** Eastern three parcels of the subject property along Flathead Lake.



**Figure 6:** Eastern three parcels as viewed from lakeshore on Flathead Lake.



**Finding #3** – The subject properties appear suitable for the proposed commercial recreation area because the land to be developed is absent of environmental constraints such as steep topography, excess fuels, floodplain or designated wetland, the applicant is not proposing any public areas which may produce trash, no public restrooms or gas distribution centers will be located on the subject properties, and the applicant will be required to receive a lakeshore construction permit, which includes the approval of three variances, for the proposed private marina on the three eastern parcels.

**B. Appropriateness of design**

**i. Parking scheme**

The applicant's submitted site plan outlines two proposed parking areas, one adjacent to US Highway 93 and the other located in the northwest corner of the property. (See Figure 7 below) The applicant indicated to staff during a telephone conversation on June 13, 2012, that they would have a minimum of 10 parking spaces available in the parking lot adjacent to US Highway 93. They also indicated they would allow a limited amount the general public using the County boat ramp to utilize their parking area if spaces were available.

**Figure 7:** Proposed parking area locations (highlighted green).



The Flathead County Zoning Regulations outlines parking requirements for recreational areas in Section 6.06. Within that section, the activity which is most similar to the applicant's proposed use is a marina. According to Section 6.06.010 FCZR regarding boat launching areas and marinas, one boat trailer space is required per 1,500 square feet of developed area, plus the applicant is required to provide one single car space for every 3 required trailer spaces. It is difficult to determine exactly how much of the subject property will be





parking spaces and the 14 single car parking spaces required under Section 6.06.010 of the zoning regulations for parking and loading requirements.

**ii. Traffic circulation**

All vehicle traffic will enter and exit the site using the existing partially paved approach onto US Highway 93. Currently the existing internal roadway is a graveled two-wheeled tract. (See Figure 9) The applicant's submitted site plan shows the internal roadway leaving the subject property in two locations: the rear northern property corner and the southern front property corner. At both of these locations, the roadway crosses adjacent residential tracts. Staff was unable to find legal access easements for either of these two locations. Additionally, the neighboring property owner commented verbally on June 13, 2012 that there was no legal existing road at those locations, and they do not want potential customers crossing their property. On July 17, 2012, the applicant submitted a modified site plan, indentifying the access at the southern front corner as 'not an access' to the property. Therefore, all access to and from the subject property must occur at the existing access onto US Highway 93. Since the internal roadway must allow for two-way access, the internal road must be widened to at least 20 feet wide per Section 6.16.020(3) of the Flathead County Zoning Regulations. In the updated application submittal on July 17, 2012, the applicant has stated they will widen the existing road to accommodate the incoming and outgoing traffic. Therefore, modifying the internal access road to meet the requirements of the zoning regulations will be a condition of approval, and will be part of the follow-up inspection occurring within one year of the permit approval.

**Figure 9:** A portion of the existing internal road on the subject property.





**Finding #5** – While there appears to be adequate space for traffic circulation throughout the entire property, the internal roadway does not comply with the established roadway standards found in Section 6.16 because the internal roadway must be a minimum of 20 feet wide to accommodate two-way traffic ingress/egress; however, the modification of the internal roadway will be a condition of approval for the permit.

**iii. Open space**

The 5 parcels are currently utilized for residential purposes. The two tracts located west of US Highway 93 are currently utilized by a residential manufactured home and residential accessory structures. However, Section 3.42.050 of the Flathead County Zoning Regulations does not list a value for maximum permitted lot coverage in the Lakeside zoning. Therefore, no set amount of open space is required to be maintained per the zoning regulations. Based on the submitted site plan (See Figure 7), it appears that the applicant is proposing to leave approximately ¼ acre in open space along the west side of US Highway 93 as a buffer zone between the highway and the proposed commercial recreation area.

**Finding #6** – There is adequate open space associated with the project because there is no limit on the amount of permitted lot coverage in the Lakeside zoning district, and the applicant will leave some open space along the western parcels adjacent to the highway as a buffer area.

**iv. Fencing/screening**

The applicant has stated in the submitted application that they propose to construct fencing around the property and proposed parking areas for security. On July 17, 2012 the applicant submitted additional information regarding the proposed fencing, stating the fence would be approximately 6 feet tall and constructed of chain-link. The fence would be located along the southern and western boundaries of the property on the west side of US Highway 93. The Flathead County Zoning Regulations does not list any fencing height requirements applicable to properties within the Lakeside zoning.

**Finding #7** – The proposed fencing around the subject property is acceptable because there are no requirements set forth by the Flathead County Zoning Regulations regarding fencing height restrictions within the Lakeside zoning.

**v. Landscaping**

No landscaping is specifically required for the proposed use per the Flathead County Zoning Regulations. The applicant is voluntarily proposing some landscaping along the western side of US Highway 93. This will visually buffer the proposed use from passing traffic along the highway. The proposed ‘green area’ will be approximately 25 feet wide by 150 feet long. The applicant has indicated it will be similar to the Lakeside Landing property, located further down the street. The area will be mostly grass, and will include a concrete sidewalk for pedestrians.

**Finding #8** – The proposed landscaping on the subject properties would be acceptable because there are no specific requirements applicable to the proposed

commercial recreation area, and the applicant has voluntarily proposed additional landscaping along US Highway 93.

**vi. Signage**

Currently there is no signage located on any of the tracts along US Highway 93. The applicant has indicated in their application submittal they would like to install signage on the property. In their modified application submitted July 17, 2012, the applicant indicated the new sign would be approximately 8 feet wide by 8 feet tall, and would be placed approximately 20 feet south of the northeast corner of the property. The sign would be permanently constructed of wood and decorative stone similar to other properties in the area. Any new signage constructed on the property must comply with the signage regulations outlined in the Lakeside zoning (Section 3.42.050(4) FCZR), and the signage regulations found in Section 5.11 of the Flathead County Zoning Regulations. Section 5.11.020(11) FCZR states the allowable signage for the subject property is 75 square feet, as the building frontage for the proposed new structure is 50 feet. Additionally, Section 5.11.020(3) FCZR states that if the proposed sign is located between 0 and 10 feet from the edge of the right-of-way, the sign may be a maximum of 72 square feet in size. Therefore, the sign proposed by the applicant is acceptable per the Flathead County Zoning Regulations.

**Finding #9** – The proposed signage submitted by the applicant is acceptable because the proposed building frontage would allow for a maximum signage area of 75 square feet, and the proposed sign of 64 square feet would be less than 72 square feet in order to meet the size restrictions regarding the distance to the edge of the right-of-way.

**vii. Lighting**

The applicant has indicated they plan to have Flathead Electric install two (2) security lights on the property, one on tract 5B and one on tract 5F-WOFHIGWAY. All exterior lighting proposed for the subject properties will be required to comply with Section 5.12 of the zoning regulations to prevent the unwanted or unwarranted intrusion of artificial lighting in or onto areas other than the subject parcels. Exterior lighting shall be hooded, screened or directed in such a manner as not to impact adjacent properties per Section 5.12.020 FCZR. At this time, the applicant has not indicated what types of fixtures will be utilized or how the lighting requirements will be addressed. Additionally, any lights provided to illuminate any public or private parking area shall be arranged to reflect the light away from any abutting or adjacent residential use. [Section 5.12.030 FCZR]

**Finding #10** – Proposed lighting for the commercial recreation area and proposed parking areas would be acceptable because the applicant will be required to comply with Section 5.12 of the Flathead County Zoning Regulations, and a follow-up inspection will verify this at the end of one year.

### **C. Availability of Public Services and Facilities**

#### **i. Sewer**

The three tracts located on the east side of US Highway 93 are currently annexed into the Lakeside Water and Sewer District. Additionally, tract 5B has also been annexed into the Lakeside Water and Sewer District. On the other hand, tract 5F-WOFHIGWAY located on the west side of US Highway 93 has not been annexed by the District. The applicant has stated in their application that water and sewer is currently available to service the property. Staff attempted to contact the Lakeside Water and Sewer District for agency comment on the proposed use; however, no comments have been received to date. The applicant submitted a letter from the Lakeside Water and Sewer District dated July 12, 2012 indicating the District would allow the property to be annexed into the District, and that services are available to the property. As a condition of approval, documentation shall be required to be submitted to the Planning Office verifying the annexation has been completed.

#### **ii. Water**

The applicant has indicated that currently the subject properties are severed by the Lakeside Water and Sewer District. Based on the Flathead County's GIS, it appears that all of the tracts except for tract 5F-WOFHIGWAY are located within the jurisdiction of the Lakeside Water and Sewer District. Staff attempted to contact the Lakeside Water and Sewer District for agency comment on the proposed use; however, no comments have been received to date. The applicant submitted a letter from the Lakeside Water and Sewer District dated July 12, 2012 indicating the District would allow the property to be annexed into the District, and that services are available to the property. As a condition of approval, documentation shall be required to be submitted to the Planning Office verifying the annexation has been completed.

**Finding #11** – The proposed commercial recreation area appears to have a minimal impact on existing public sewer and water facilities because the applicant submitted a letter from the Lakeside Water and Sewer District stating the property was adjacent to existing services, and the property would be allowed to be annexed into the District.

#### **iii. Storm Water Drainage**

Storm water drainage on the subject parcels is currently handled in the existing open space and adjacent to US Highway 93. The applicant has indicated on their submitted application they will install a drainage system to meet the requirements of the governmental agencies. Comment was received from Glen Gray with the Flathead City-County Environmental Health Department that although there is no storm drainage system required by any governmental agency, the applicant should construct a drainage system designed by a professional engineer and built to the standards developed by the Montana Department of Environmental Quality. Additionally, the applicant is proposing to leave approximately ¼ of the property along US Highway 93 in open space which should assist in the drainage of storm water.

**Finding #12** – Storm water drainage has been adequately addressed because the subject parcels will continue to utilize existing swales along US Highway 93, the applicant is proposing to leave approximately ¼ of the property in open space, and comment was received from the Environmental Health Department that nothing was required, although the applicant should contact the Montana Department of Environmental Quality to design a drainage system that meets their development standards.

**iv. Fire Protection**

The subject properties are located within the jurisdiction of the Somers Fire District, with the closest fire station located approximately 0.17 miles south of the property, along Bills Road in Lakeside. Access to the parcels would be available using the existing approach from US Highway 93 and the internal roadway. It is anticipated any new commercial structures will require review and approval through the Montana Department of Industry Building Codes Bureau, and will be required to meet adequate codes and standards related to fire safety as regulated by the state.

**v. Police Protection**

The subject property is currently served by the Flathead County Sheriff's Department. Relatively quick response times would be anticipated given the property's location adjacent to US Highway 93 and in close proximity to the community of Lakeside.

**vi. Streets**

As discussed in previous sections, the subject parcels located on the west side of US Highway 93 have direct access onto the highway via an existing partially paved approach. The highway is able to accommodate large amounts of vehicle traffic, and the existing access appears to have adequate site distances to safely accommodate traffic entering and exiting the property. Staff contacted the Montana Department of Transportation for agency comments, however, at this time they have no comments regarding the proposal. As the subject property does not have any other legal access points, all access to and from the subject property must occur at the existing access onto US Highway 93, which is the property's legal access and is directly adjacent to the subject properties. Since MDT has indicated they have no comment and public transportation facilities are available to the subject property, the criteria appears to be met. For more information on the impacts the proposed use may have on *traffic generation*, see Section D below. Additionally, the applicant will be required to contact MDT to determine if a new approach permit is necessary, as they gave no comments on the proposal. Documentation indicating a new approach permit has been granted, or a letter from MDT stating it is not required will be need to be available within one-year of the permit issuance. Furthermore, for more information on the modification of the existing internal roadway, see Section B regarding the proposed internal traffic circulation.

On July 17, 2012, the applicant submitted additional information regarding the proposal, and indicated they would be meeting with MDT representative Dave Roser on Monday July 23, 2012, regarding the existing approach and potential

improvements. At this time, our office has received no additional information regarding any proposed modifications to the existing approach.

**Finding #13** - Impacts to public services and facilities are anticipated to be minimal because the subject properties are located within the jurisdiction of the Somers Fire District and the Flathead County Sheriff's Department, there is an existing paved approach providing direct access onto US Highway 93 which appears capable of serving the traffic generated by the proposal, and the applicant will be required to contact MDT to determine if a new approach permit and any safety improvements are necessary.

#### **D. Immediate Neighborhood Impact**

##### **i. Excessive traffic generation**

The subject parcels are located adjacent to US Highway 93, which receives high rates of regular daily traffic. Staff typically utilizes the 5<sup>th</sup> Edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual to provide traffic counts for different land uses. However, in this case the only applicable land use was a marina. While this is definitely similar to the proposed use, the number of slips associated with the traffic counts were 300 and above. Therefore, it does not give an accurate count for the number of traffic generated by a proposal with only 4 slips. The closest traffic count site that the Montana Department of Transportation has on US Highway 93 is located north of the community of Lakeside. According to their website,<sup>1</sup> in 2010 the site received an estimated 8,520 traffic trips per day. Staff contacted the Montana Department of Transportation to determine if a Traffic Impact Study might be required for the subject property. While they did not inform staff of a specific threshold number, they referenced Chapter 41 of the Montana Traffic Engineering Manual which discusses Traffic Impact Studies and when they are typically required.

Additionally, staff contacted the applicant on June 15, 2012 to determine, on an average summer day, how much traffic the proposed use might generate. Staff was informed that at least 50% or more of the boat rentals are for long term; typically at least a full day to between 3 and 7 days. Therefore, at least 10 of the boats on the property would only be utilized by one individual or family per day. The applicant also stated that they would rarely do hourly rentals on this property, and it would not be something they encouraged. The majority of the hourly rentals would occur on their property in Bigfork which has better access and site suitability for hourly rentals. Staff also questioned the applicant on how many boats they would see on the subject property for repair work, other than their own boats. The applicant informed staff that the majority of their boat repair work occurs on the property they own west of Kalispell which is larger and equipped with special bays for boat repair. On the subject property in Lakeside, they would only see between 3-4 boats per day, mainly for vacuuming and windshield cleaning.

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<sup>1</sup> Montana Department of Transportation's Traffic Count Site Map Website  
[http://www.mdt.mt.gov/publications/datastats/statewide\\_traffic.shtml](http://www.mdt.mt.gov/publications/datastats/statewide_traffic.shtml)



On July 17, 2012 the applicant submitted additional information which stated the average rental period occurs between June 15<sup>th</sup> and September 7<sup>th</sup>. During this time, which is the busiest of the summer season, the applicant expects to service a maximum of 10 rental units per day. The average number of people in each boat is approximately 4, which gives an estimate of 40 people entering and exiting the property per day during the highest volume times. This would be equivalent to 20 vehicle trips per day, with 2 people in each vehicle. Based on the applicant's information on the number of boat rentals per day, and the current estimated number of vehicle trips per day on US Highway 93, it can reasonably be assumed that US Highway 93 will not be generally affected by the proposed use, and can accommodate any additional vehicle trips.

**Finding #14** – Vehicle traffic generated by the proposed use is not anticipated to negatively impact the immediate neighborhood because the traffic generated by the proposed use would utilize US Highway 93 which has been designed to accommodate higher traffic volumes, the majority of boat rentals from the property would be for a full day or longer, and the peak number of users would be 40 people, which is equivalent to a total of 20 vehicle trips per day.

**ii. Noise or vibration**

No *excessive* noise or vibration is anticipated as a result of the proposed commercial recreation area. There may be some noise associated with the coming and going of the boat trailers, especially since the applicant is proposing normal hours of operation in the summer months to occur until 10:00PM. However, the noise should be minimal as the applicant has indicated only one or two units per day may be late night returns. This should reduce any impact on neighboring residential homes. Additionally, the applicant is proposing a buffer zone between the property and US Highway 93, which would also limit the amount of noise generated.

**iii. Dust, glare or heat**

No excessive dust, glare or heat is anticipated as a result of the proposed commercial recreation area. The applicant has stated the proposed parking areas would be paved to limit the amount of dust produced. Additionally, the majority of the parcels will remain in undeveloped open space, reducing the amount of heat and glare generated.

**iv. Smoke, fumes, gas, or odors**

The proposed commercial recreation area will mainly consist of automobile and boat trailer parking, which will generate odors similar to other parking lots in the area along US Highway 93. The applicant has indicated there may be some odors emitted during the repair or detailing of boats in the proposed shop; however these activities would occur during normal business hours, proposed to be from 9AM to 6PM.

**Finding #15** – Impacts resulting from the proposed commercial recreation area would be acceptable because the proposed use will not generate excessive noise or vibration beyond what currently exists adjacent to US Highway 93, no dust, glare or heat is anticipated, any odors generated from the proposed use would

occur during normal business hours, and a buffer is proposed to help mitigate any impacts.

**v. Inappropriate hours of operation**

In the additional information submitted on July 17, 2012, the applicant has indicated typical hours of operation will be between 9:00 AM and 6:00 PM Monday through Saturday, and 10:00AM and 6:00PM on Sunday during the summer season which runs from June 15<sup>th</sup> through September 30<sup>th</sup>. Occasionally, the applicant has indicated they may have late boat returns, which would occur around dark. During summer hours, this may well be around 10:00PM. However, the applicant has indicated this would be at most, only one or two units per day. There are currently residential uses occurring on all tracts surrounding the subject property. While the normal business hours of 9:00AM to 6:00PM appear to be acceptable, the occasional evening rentals may not be acceptable for a residential neighborhood. However, at the time of writing this report, no public comments indicating any issues with the proposed hours of operation have been submitted for staff's review. Therefore, staff is unable to comment on the appropriateness of the late evening rentals.

**Finding #16** – The proposed hours of operation are acceptable because they are similar to other commercial uses in the area, and no public comment has been submitted indicating the residential uses surrounding the subject property would be impacted.

**V. SUMMARY OF FINDINGS**

1. The subject property contains adequate usable space because the proposed commercial recreation area would occur on 5 parcels which total approximately 3.1 acres, there is suitable buildable area to accommodate the functional needs of the proposed use, and the proposal as submitted on July 17, 2012 can meet all the applicable bulk and dimensional requirements of the Lakeside zoning.
2. The site appears to have adequate access because the western parcels have direct access onto US Highway 93, the approach appears to have good site distances to allow traffic to enter and exit the property safely, the applicant will be required to contact MDT to determine if a new approach permit is necessary, and the applicant will be required to establish a pedestrian crosswalk with appropriate signage across US Highway 93, if allowed by MDT, to maintain safe access to and from the subject property.
3. The subject properties appear suitable for the proposed commercial recreation area because the land to be developed is absent of environmental constraints such as steep topography, excess fuels, floodplain or designated wetland, the applicant is not proposing any public areas which may produce trash, no public restrooms or gas distribution centers will be located on the subject properties, and the applicant will be required to receive a lakeshore construction permit, which includes the approval of three variances, for the proposed private marina on the three eastern parcels.

4. The proposed parking locations are acceptable because adequate space is available on the subject property to accommodate the 41 boat trailer parking spaces and the 14 single car parking spaces required under Section 6.06.010 of the zoning regulations for parking and loading requirements.
5. While there appears to be adequate space for traffic circulation throughout the entire property, the internal roadway does not comply with the established roadway standards found in Section 6.16 because the internal roadway must be a minimum of 20 feet wide to accommodate two-way traffic ingress/egress; however, the modification of the internal roadway will be a condition of approval for the permit.
6. There is adequate open space associated with the project because there is no limit on the amount of permitted lot coverage in the Lakeside zoning district, and the applicant will leave some open space along the western parcels adjacent to the highway as a buffer area.
7. The proposed fencing around the subject property is acceptable because there are no requirements set forth by the Flathead County Zoning Regulations regarding fencing height restrictions within the Lakeside zoning.
8. The proposed landscaping on the subject properties would be acceptable because there are no specific requirements applicable to the proposed commercial recreation area, and the applicant has voluntarily proposed additional landscaping along US Highway 93.
9. The proposed signage submitted by the applicant is acceptable because the proposed building frontage would allow for a maximum signage area of 75 square feet, and the proposed sign of 64 square feet would be less than 72 square feet in order to meet the size restrictions regarding the distance to the edge of the right-of-way.
10. Proposed lighting for the commercial recreation area and proposed parking areas would be acceptable because the applicant will be required to comply with Section 5.12 of the Flathead County Zoning Regulations, and a follow-up inspection will verify this at the end of one year.
11. The proposed commercial recreation area appears to have a minimal impact on existing public sewer and water facilities because the applicant submitted a letter from the Lakeside Water and Sewer District stating the property was adjacent to existing services, and the property would be allowed to be annexed into the District.
12. Storm water drainage has been adequately addressed because the subject parcels will continue to utilize existing swales along US Highway 93, the applicant is proposing to leave approximately  $\frac{1}{4}$  of the property in open space, and comment was received from the Environmental Health Department that nothing was required, although the applicant should contact the Montana Department of Environmental Quality to design a drainage system that meets their development standards.

13. Impacts to public services and facilities are anticipated to be minimal because the subject properties are located within the jurisdiction of the Somers Fire District and the Flathead County Sheriff's Department, there is an existing paved approach providing direct access onto US Highway 93 which appears capable of serving the traffic generated by the proposal, and the applicant will be required to contact MDT to determine if a new approach permit and any safety improvements are necessary.
14. Vehicle traffic generated by the proposed use is not anticipated to negatively impact the immediate neighborhood because the traffic generated by the proposed use would utilize US Highway 93 which has been designed to accommodate higher traffic volumes, the majority of boat rentals from the property would be for a full day or longer, and the peak number of users would be 40 people, which is equivalent to a total of 20 vehicle trips per day.
15. Impacts resulting from the proposed commercial recreation area would be acceptable because the proposed use will not generate excessive noise or vibration beyond what currently exists adjacent to US Highway 93, no dust, glare or heat is anticipated, any odors generated from the proposed use would occur during normal business hours, and a buffer is proposed to help mitigate any impacts.
16. The proposed hours of operation are acceptable because they are similar to other commercial uses in the area, and no public comment has been submitted indicating the residential uses surrounding the subject property would be impacted.

## **VI. CONCLUSION**

Upon review of this application, the request for a Commercial Recreation Area on the five subject properties is generally supported by the review criteria and 15 of the total 16 Findings of Fact listed above. Should the Flathead County Board of Adjustment choose to adopt staff report FCU-12-05 as findings of fact and approve the conditional use permit, the following 12 mitigating conditions would ensure compliance with the review criteria and appropriate measures to mitigate impacts have been met:

## **VII. CONDITIONS**

1. The location and operation for the proposed commercial recreation area on the subject properties shall be in substantial conformance with the application and site plan submitted and approved by the Board of Adjustment [FCZR Section 2.06.010].
2. Changes or modifications to the approved use(s) and/or site plan shall not be affected unless specifically reviewed and approved by the Flathead County Board of Adjustment [FCZR Section(s) 2.06.010 and 2.06.020].
3. All existing or proposed structures shall conform with all applicable bulk and dimensional requirements of the "Lakeside" zoning [FCZR Section 3.42.050].
4. The applicant shall install a pedestrian crosswalk across US Highway 93 at the subject property, with appurtenant demarcation and signage per the requirements of the Montana Department of Transportation, if required by the agency, or provide a letter from the Montana Department of Transportation stating it is not required.

5. A minimum of 41 parking spaces for boat trailers plus 14 parking spaces for single cars shall be set aside on the subject properties to accommodate employee and visitor traffic generated by the proposed Commercial Recreation Area, in accordance with applicable zoning regulations [FCZR Section 6.06.010]. All of the parking spaces must comply with the parking standards found in Chapter 6 of the Flathead County Zoning Regulations.
6. The existing access and proposed internal roadway shall be widened to at least 20 feet wide to accommodate two-way traffic per Section 6.16.020(3) of the Flathead County Zoning Regulations.
7. All signage on the subject property shall comply with the applicable standards and guidelines set forth in the Lakeside zoning [Section 3.42.050(4) FCZR] and Section 5.11 of the Flathead County Zoning Regulations.
8. All proposed exterior lighting on the subject property shall adhere to the performance standards set forth in the Flathead County Zoning Regulations [FCZR Section 5.12].
9. The proposed structures for the Commercial Recreation Area shall undergo review and receive approval from the Department of Labor & Industry Building Codes Bureau, in the form of a building and occupancy permit, to ensure compliance with all applicable construction and fire codes. Documentation confirming the completion of this requirement shall be available upon request.
10. The proposed Commercial Recreation Area shall undergo review by the Lakeside Water and Sewer District to determine if all tracts need to be annexed into the District, or if the existing water and sewer connections are adequate prior to operation. Documentation confirming the completion of this requirement shall be available upon request.
11. The applicant shall contact the Montana Department of Transportation to obtain a new approach permit for the change of use on the subject property. Documentation confirming the completion of this requirement shall be available upon request.
12. The applicant shall allow an on-site inspection, one year after the permit is granted to verify compliance with the conditions of approval and on-going use of the Conditional Use Permit, or verify a basis for an extension request, both per Section 2.06.060 of the Flathead County Zoning Regulations.